

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CASE NO. 1:20-cv-00954-WO-JLW**

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and  
VITAL MANAGEMENT SERVICES,  
INC.,

Defendants.

**PLAINTIFF’S MOTION TO  
MODIFY SCHEDULING ORDER  
AND TO EXTEND TIME**

Pursuant to Federal Rule of Civil Procedure 16(b)(4), Plaintiff hereby respectfully requests the Court to modify the Scheduling Order (ECF No. 93) to extend the fact discovery deadlines by 180 days and the expert deadline by an additional ninety days.\* In support of this motion, Plaintiff shows the Court to the following:

1. Pursuant to the Scheduling Order entered by this Court on November 16, 2023, fact discovery shall be completed by July 1, 2023, “[t]he parties shall designate experts by the close of fact discovery, and expert discovery shall conclude by August 1, 2023.” ECF No. 93 at 2.

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\* On May 16, 2023, the Court ordered that the parties were not to file any further discovery motions because the Court was preparing for a hearing on the substantive discovery issues. See ECF No. 229. Plaintiff submits that the instant motion, which merely seeks an extension of the discovery deadlines to allow the Court to rule on the outstanding motions, is not a substantive discovery motion and does not violate the Court’s May 16, 2023, Order.

2. The Court currently has before it sixteen substantive motions involving the scope of discovery and related issues. Due to these pending discovery disputes, substantial discovery is still outstanding. For example, the parties have noticed eight depositions that have not been conducted, including depositions of the Parties. Multiple witnesses have refused to produce any documents until the Court rules on the outstanding discovery motions.

3. Because discovery is incomplete, the parties are also unable to designate experts by the July 1, 2023, deadline.

4. “A schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). Here, the Court has good cause to modify the Scheduling Order, as there are still numerous outstanding discovery motions pending before the Court that will affect the scope of discovery.

5. Counsel for Plaintiff has conferred with counsel for Defendants on this motion. Defendants requested an extension of the expert designation deadline and agreed that modification of the Scheduling Order was necessary with regard to expert designations. Defendants did not agree, however, to an extension of other discovery deadlines. Plaintiff submits that the Court should simply extend all discovery deadlines to allow time for the Court to rule on the outstanding motions and to allow the Parties to complete discovery in an

effective manner that will be consistent with the Court's rulings on the outstanding discovery motions.

Accordingly, Plaintiff respectfully requests that the Court modify the Scheduling Order (ECF No. 93) to extend the fact discovery deadlines by 180 days to December 28, 2023, and the expert deadline by an additional 90 days to March 27, 2024.

Respectfully submitted on this, the 29th day of June, 2023.

**WOMBLE BOND DICKINSON (US) LLP**

/s/ Ripley Rand

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Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this Notice to the following attorneys:

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This, the 29th day of June, 2023.

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